(71)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1929 of 1999

Petitioner		Anantram Gupta, aged about 35 years, son of Shri Narwada Prasad Gupta, Assistant Engineer, Fish Farmer Development Agency, Bilaspur (C.G.)
	Versus	
Respondents	1.	The State of M.P., Through the Secretary, Department of Fisheries, Ballabh Bhawan, Bhopal (M.P.)
	2.	The Director, Fisheries Department, Vindhyachal, Bhopal (M.P.)
	3.	The Chairman, Fish Farmer Development Agency, Bilaspur (C.G.)
	4.	The Chief Executive Officer, Fish Farmer Development Agency, Zila Panchayat Bhawan, Bilaspur (C.G.)

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Manoj Paranjpe, Advocate for the petitioner.

Shri Pankaj Shrivastava, Panel lawyer for the Respondents No. 1 to 3.

ORAL ORDER

(13th January, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner was appointed as Assistant Engineer vide order dated 13.3.1995 (Annexure P/1) in the department of Fish Farmer Development Agency at Bilaspur. The petitioner submitted a representation dated 15.3.1993 (Annexure P/2) to the Collector/Chairman, Fish Farmer Development Agency, Bilaspur that the petitioner was entitled to the pay scale of Rs. 2200-4000 as the same was payable to other similarly

situated persons, who were working as Assistant Engineer (Civil) in the Agency. The Respondent No.2 vide his letter dated 2.4.1993 (Annexure P/3), addressed to the Respondent No.4 mentioned that it would be appropriate to consider the representation of one Shri Nemi Chand, Assistant Engineer (Civil) for grant of pay scale of Rs. 2000-4000/-. Thereafter the petitioner was also granted the same pay scale vide order dated 21.5.1993 (Annexure P/4) after obtaining approval from the Finance Department.

2. Vide order dated 4.11.1996 (Annexure P/5) the Collector, Bilaspur was directed to submit his report with regard to the grant of pay scale and promotion to the petitioner. The Respondent No.3 vide letter dated 26.12.1996 (Annexure P/6) submitted a detailed information with regard to grant of the above stated pay scale to the petitioner, in which it was clearly stated that the petitioner was rightly granted the pay scale of Rs. 2200-4000/-, as other similarly situated Assistant Engineers were granted the same pay scale. Vide letter dated 1.2.1997 (Annexure P/7) it was communicated to the Respondent No.3 that having satisfied with the detailed information submitted by the Respondent No.3, the file stood closed by the State Government.

3. The petitioner received letter dated 7.4.1999 (Annexure P/8) wherein the order dated 21.5.1993 granting pay scale of Rs. 2200-4000/- to the petitioner was cancelled and the petitioner was granted pay scale of Rs. 2000-3500/-. It was further directed that the excess payment made to the petitioner by virtue of the order dated 21.5.1993 be recovered

at the rate of Rs. 1000/- p.m. Being aggrieved, the petitioner has filed this petition under Article 226/227 of the Constitution of India praying that the order dated 7.4.1999 (Annexure P/8) and order dated 7.4.1999 (Annexure P/9) be quashed.

4. This Court while admitting this petition for hearing on 3.5.1999 granted stay of the impugned communication Annexure P/8 and consequently Annexure P/9 was also stayed.

5. Shri Manoj Paranjpe, learned counsel for the petitioner submits that the impugned order reducing pay scale of the petitioner from Rs. 2200-4000 to Rs. 2000-3500 involves civil consequences and this order cannot be passed without show cause notice and without granting an opportunity of hearing to the petitioner. The petitioner has enjoyed the enhanced pay scale from May, 1993 till April, 1999 and as such no order prejudicing interest of the petitioner can be passed without affording an opportunity of hearing to the petitioner to put his case.

6. Shri Pankaj Shrivastava, learned counsel for the respondents/State, per contra, submits that the Assistant Engineers who are appointed through Public Service Commission are entitled to the pay scale of Rs. 2200-4000 and other Assistant Engineers like the petitioners are entitled to only the pay scale of Rs. 2000-3500/-. Be that as it may, any order which involves civil consequences, need to be passed after providing sufficient opportunity to the employee for putting up his case. In the present case, admittedly, no show

cause notice was issued before the impugned orders were passed.

7. The Supreme Court in **Bhagwan Shukla Vs. Union of India and others** (AIR 1994 SC 2480), where the petitioner's basic pay was reduced from Rs. 190/- per month to Rs. 181/- per month has held as under:-

"The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter."

8. The facts of the present case are squarely covered by the decision of the Supreme Court in the case of **Bhagwan Shukla** (supra).

9. For the reasons stated above, the petition is allowed. The impugned orders dated 7.4.1999 (Annexure P/8) and 7.4.1999 (Annexure P/9) are quashed and set aside. No order as to costs.

Certified copy, as per Rules.

Sd/-
Satish K. Agnihotri
Judge

Thakur